

Assembly Bill No. 2171

CHAPTER 426

An act to add Section 76038 to the Education Code, relating to community college districts.

[Approved by Governor September 21, 2012. Filed with
Secretary of State September 21, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2171, Fong. Public postsecondary education: community colleges: expulsion hearing.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law authorizes the governing board of a district to expel a student for good cause when the presence of the student causes a continuing danger to the physical safety of the student or others. Existing law requires that the expulsion be accompanied by a hearing.

This bill would authorize the governing board of a district to either deny enrollment, permit enrollment, or permit conditional enrollment to any individual who has been expelled from a community college within the preceding 5 years, or who is, at the time of the application, undergoing expulsion procedures, for certain offenses, as provided, if the board determines that the person continues to pose a risk to the safety of others. This bill would require the board or a delegate to hold a hearing, before taking action to deny enrollment or permit conditional enrollment, to determine whether the person continues to pose a risk. The bill would authorize a governing board of a district to delegate its authority under these provisions to the superintendent or president of the district, or to his or her designee.

The bill also would authorize the community college district to request information, and respond to a request for information, from another community college district to determine whether an applicant continues to pose a danger to the physical safety of others. The bill would authorize a community college district to require these applicants to inform the district of his or her prior expulsion, and to consider failure to do so in determining whether to grant admission.

The bill would expressly apply specified immunities to an exercise of discretion by a community college district, and its officers and employees,

under these provisions. The bill would not apply these provisions to the admission of students for whom a community college district has discretion to admit pursuant to specified law.

The people of the State of California do enact as follows:

SECTION 1. Section 76038 is added to the Education Code, to read:

76038. (a) If the governing board of a community college district receives an application for admission from an individual who has been expelled from another district pursuant to this article within the preceding five years, or who is undergoing expulsion procedures in another district, for any of the offenses listed in subdivision (b), before taking action to deny enrollment or permit conditional enrollment as authorized by subdivision (e), the governing board or delegate pursuant to subdivision (f) shall hold a hearing, conducted in accordance with this section and the applicable rules and regulations governing enrollment hearings authorized by this section and adopted in accordance with Section 66300, to determine whether that individual poses a continuing danger to the physical safety of the students and employees of the district.

(b) For purposes of this section, “offense” means one of the following:

(1) Committed or attempted to commit murder.

(2) Caused, attempted to cause serious, or threatened to cause physical injury to another person, including assault or battery as defined in Section 240 or 242 of the Penal Code, except in self-defense.

(3) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed sexual battery as defined in Section 243.4 of the Penal Code.

(4) Committed or attempted to commit kidnapping, or seized, confined, inveigled, enticed, decoyed, abducted, concealed, kidnapped, or carried away another person by any means with the intent to hold or detain that person for ransom or reward.

(5) Committed or attempted to commit robbery or extortion.

(6) Committed stalking as defined in Section 646.9 of the Penal Code.

(7) Unlawfully possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object.

(c) A community college district may request information, and respond to a request for information, from another community college district to determine whether an applicant continues to pose a danger to the physical safety of others.

(d) A community college district may require a student seeking admission who has been previously expelled from a community college in the state for any of the actions listed in subdivision (b) to inform the district of his or her prior expulsion. Failure to do so may be considered by the district in determining whether to grant admission, and a written record of the fact may be maintained by the district with the applicant’s file.

(e) The governing board of a community college district, upon making a determination pursuant to subdivision (a), shall take into consideration evidence of subsequent offenses and rehabilitative efforts since the offense and may take any of the following actions:

- (1) Deny enrollment.
- (2) Permit enrollment.
- (3) Permit conditional enrollment.

(f) The governing board of a community college district may delegate any authority under this section to the superintendent or president of a community college district, or his or her designee, or a threat assessment crisis response team pursuant to rules and regulations adopted pursuant to Section 66300.

(g) Before the governing board of a community college district takes action as authorized under this section, the governing board shall establish a formal appeals process for students denied enrollment to appeal the decision to the governing board. A student who is denied enrollment under subdivision (e) may appeal the decision to deny enrollment to the governing board of the community college district.

(h) This section shall not be construed to impose any duty on a community college district to review applicants for admission or review previously enrolled students, whether returning or continuing, or to conduct a hearing in response to the receipt of any information regarding a potential, former, or existing student.

(i) In accordance with Sections 815.2 and 820.2 of the Government Code, a community college district, a member of the governing board of a community college district, an officer or employee of a community college district, including a superintendent of a community college district, a president of a community college district, and the designee of a president or a superintendent, shall not be liable for an injury resulting from an exercise of discretion pursuant to this section, including, but not limited to, an exercise of discretion not to conduct a hearing when a hearing is not required.

(j) This section shall not apply to the admission of students for whom a community college district has discretion to admit pursuant to Section 76000.